MONTANA LEGISLATIVE HISTORY

Chapter 441 19 73

Bill H _____ S 446 Original bill & history ____C

H. Committee on Labor & Employ. Relations			S. Committee on Labor & Employ. Relations		
Hearing Date(s)	Mar 05	✓C	Hearing Date(s)	Feb 07	✓C
	Mar 07	✓C		Feb 09	✓C
	_____	____C		_____	____C
	_____	____C		_____	____C
Date Out	_____	____C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

CHAPTER NO. 441

SENATE BILL NO. 446

INTRODUCED BY BERTSCHE

AN ACT GRANTING PUBLIC EMPLOYERS AND PUBLIC EMPLOYEES THE RIGHT TO BARGAIN COLLECTIVELY; PROVIDING THAT THE BOARD OF PERSONNEL APPEALS MAY DESIGNATE LABOR ORGANIZATIONS TO BE EXCLUSIVE REPRESENTATIVE OF EMPLOYEES IN CERTAIN UNITS; AND MAY ALSO CALL ELECTIONS BY EMPLOYEES FOR THE SAME PURPOSE; PROVIDING THE BOARD OF PERSONNEL APPEALS SHALL ESTABLISH REMEDIES FOR UNFAIR LABOR PRACTICES; AND PROVIDING PRECEDURES FOR CARRYING OUT THE ACT.

This bill was received by the Governor this 17th day of March 1973

Thomas L. Judge

By [illegible] Governor

Approved 3-22-73

Governor

STATE OF MONTANA
DEPARTMENT OF SECRETARY OF STATE
FILED
March 23 1973
AT 1:50 O'CLOCK P M
Frank Murray
SECRETARY OF STATE
BY Jo Ann Woodgerd
DEPUTY

ORIGINAL

9:45 a.m. 2/1

SENATE Bill 446

LEGISLATIVE SERVICES DIVISION
1207 Has Been Checked for proper format
Rose Weber
DIRECTOR

APPROVED FOR
18th DAY INTRODUCTION

FEB 1 1973

Considered Read & Referred
to Committee on
Labor

FEB 9 1973

By request time extended
for additional 7 days

FEB 1 6 1973

Committee recommend bill do pass as amended. Report adopted. Referred to Bills Committee for printing.

FEB 14 1973

Reported correctly printed.
Report adopted. Referred to
Second Reading.

FEB 15 1973

Passed Consideration

FEB 16 1973

ecommended favorably by Com. of
e Whole as amended. Report adopt-
and referred to Bills Committee
r engrossing.

Reported correctly engrossed,
report adopted and referred to
Calendar for third reading.

On motion rules suspended. Bill
laced on Calendar for Third Reading

Read third time and passed. Title and history agreed to. Transmitted to House for Concurrence.

IN THE HOUSE

Received from the Senate
after the 40th Legislative day.

FEB 20 1973

Considered read and referred
to Committee on Labor

MAR 7 1973

Committee recommend that bill be concurred in as amended. Report adopted. Bill referred to Second Reading.

MAR 9 1973

Committee of the Whole recommend bill be concurred in as amended. Report adopted. Referred to Calendar for Third Reading.

MAR 10 1973

Read third time and concurred in.
Title and history agreed to.
Returned to Senate for concurrence
in house amendments.

In the Senate

Special Session
By ruling legislation
allowed to be considered.

MAR 12 1973

Bill returned from House. Referred
to Second Reading for concurrence
In House Amendments.

COMMITTEE OF THE WHOLE
RECOMMEND SENATE
CONCUR IN HOUSE AMENDMENTS
PLACED ON CALENDAR FOR
ROLL CALL

MAR 13 1973

By ruling legislation
allowed to be considered.

On roll call Senate concurs in House amendments.

Referred to Bills Committee for enrolling.

MAR 17 1973

Reported correctly enrolled
Report adopted

SIGNED by PRESIDENT
In open SESSION

MAR 22 1973

SIGNED BY THE GOVERNOR

APR 2 1973

Verified and checked with Journal
and found correct

MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE

A public hearing of the Labor and Employment Relations Committee was called to order by Chairman Siderius, February 7, 1973 at 7:30 p.m. in the Senate Chambers, of the Capitol Building.

ROLL CALL: Senators Jensen and McNamer excused. Senator Keenan absent.

CONSIDERATION OF SENATE BILLS 446 and 226:

Senator Bertsche appeared before the Committee and interested persons in support of his bill SB 446. The Senate Chambers were filled with approximately 25 persons in the gallery who had come to hear testimony on these two bills.

Proponents appearing before the Committee on Senate Bill 446:

Bob Jensen, State Department of Personnel
Sidney Smith, Department of Labor and Industry
George Hammon, American Federation of State, County and Municipal Employees, AFL-CIO
George Mitchell, Administrative Vice president of University of Montana
John Morrison, Jr., Montana Section American Society of Engineers
Doyle Saxby, Director, Department of Administration
Jim Murray, Exec. Sec. Montana State AFL-CIO

No definite opponents appeared. Some were against the bill as written and suggested amendments.

Proponents appearing before the Committee on Senate Bill 226:

Dan Mizner, Montana League of Cities & Towns
Dean Zinnecker, Montana Association of County Commissioners
James Jackson, Montana League of Cities & Towns
Tom Schneider, Exec. Director of Montana Public Employees Association
Chadwick Smith, Legal Counsel, Montana School Boards Association
Dave Twiddy, Montana Society of Engineers

The hour being late no discussion was held. However, the general feeling of the persons attending was that we definitely need some type of collective bargaining.

This hearing adjourned at 9:05 p.m.

Siderius

SENATOR GEORGE SIDERIUS, CHAIRMAN

Senator Bennett moved that SB 127 Do Pass as Amended. Seconded by Senator Flynn. Motion carried, unanimously.

CONSIDERATION OF SENATE BILL 446:

Senator Bertsche explained his amendments to SB 446. No action was taken on the amendments until a meeting is called, in order for the members to study the amendments.

Meeting adjourned at 1:25.

SENATOR GEORGE SIDERIUS, CHAIRMAN

Suggested Amendments from Chad SSmith

SB 226:

On Page 2, line 17, insert "school district clerks" after the word "teachers,"

SB 446

On page 2, line 11, insert "school district clerks" after the word "teachers,"

On page 2, line 13, insert "registered professional or licensed practical nurses performing services for compensation for a health care facility,"

On page 6, line 24, delete the word "an" and insert in lieu thereof the words "a public"

MINUTES OF MEETING OF THE
LABOR AND EMPLOYMENT RELATIONS COMMITTEE
STATE SENATE

A meeting of the Labor and Employment Relations Committee was called to order by Chairman Siderius, February 9, 1973 at 5:30 P.M., Room 402 of the State Capitol Building.

ROLL CALL: All members present except Senator Moore was excused.

CONSIDERATION OF SENATE BILL 446:

Senator Bertsche moved, seconded by Senator Flynn that the amendments be accepted.

Senator Lowe offered a substitute motion that "professional engineers and engineers in training" be excluded from this bill. Senator McNamer seconded the motion. Motion carried.

Senator Bertsche's motion to accept the amendments carried.

Senator Bertsche moved, seconded by Senator Jensen that SB 446 Do Pass As Amended. Motion carried, with Senator McNamer opposing.

CONSIDERATION OF SENATEBILL 447:

Senator Bennett offered an amendment to SB 447. Senator Bertsche moved the amendments be amendments be accepted. Motion carried.

Senator Bertsche moved that SB 447 Do Pass As Amended. Second received; Motion carried.

Meeting adjourned.

Siderius

SENATOR GEORGE SIDERIUS, CHAIRMAN

SENATE COMMITTEE Labor & Employment Relations

Date 2/9/73 Bill No. 446 Time

NAME	YES	NO
Art Jensen	X	
Bill Bertsche	X	
Elmer Flynn	X	
P.J. Keenan	X	
Jimmy Shea	X	
George Bennett	X	
Matt Himsl	X	
Bill Lowe		X
Jim Moore	E	
William McNamer	X	
George Siderius, Chairman		

Secretary Louise Sullivan

Chairman George Siderius

Motion: Do Pass As Amended. Motion carried.

SENATE COMMITTEE Labor & Employment Relations

Date 2/9/73 Bill No. 446 Time

NAME	YES	NO
Art Jensen	X	
Bill Bertsche		X
Elmer Flynn	X	
P.J. Keenan		X
Jimmy Shea	X	
George Bennett	X	
Matt Himel	X	
Bill Lowe	X	
Jim Moore	X	
William McNamer	X	
George Siderius, Chairman		X

Secretary Louise Sullivan

Chairman George Siderius

Motion: Senator Lowe motioned to exclude "professional engineers and engineers in training". Motion carried

March 5, 1973

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the Labor and Employment Relations Committee was held on Monday, March 5, 1973 at 10:30 a.m. in Room 428A with Chairman Pat McKittrick presiding. All members were present except Reps. Colberg, East, Ellerd, Kimble and Turner.

SENATE BILL # 446 -- SPONSOR: Sen. Bertsche said that the fastest growing unions today are the unions in the public factor. This bill covers the public employer. The responsibility of a labor union is asserted in the bill. Several technical amendments were offered. Bob Jensen supported Sen. Bertsche's comments concerning the state level. Jim Murry, AFL-CIO, -- gave lengthy testimony at the joint hearing on this bill already. George Hammond, AFL-CIO, AFSCME--statement attached. R.L. Rampy, Teamsters J.C. # 23 -- statement attached. OPPONENTS: Norman Ostrander, Exec, Sec. of Public Affairs, Mont. Conference of Seventh-Day Adventists -- statement attached. Questions followed; Joe Rossman helped answer some of them.

SENATE BILL # 447 -- SPONSOR: Sen. McCallum would like to see some of the stricken (by the Senate) material reinstated. Many injured workmen are having trouble getting their compensation. Jim Murry, AFL-CIO, -- supports the bill, minus the amendments. The burden of proof for proving that he is entitled to benefits is up to the claimant himself. Many times in Montana a claimant's benefits will be cut off. It was suggested that the bill might be discussed in a conference committee. Questions followed.

SENATE BILL # 278 -- SPONSOR: Sen. Vainio -- this bill provides that the Division of Workmen's Comp. may request and encourage the Board of Investments to invest in the Health Care Facilities of Montana. William Leary, Mont. Hosp. Assoc. -- this bill is an approach to provide some of these needed monies at a reasonable rate. He proposed an amendment changing the rate to 1 1/2% which would be a compromise. Rod Gudgel arose in support of the bill on behalf of the Mont. Nursing Home Assoc. No opponents; questions followed. Rep. Halvorson, who was going to carry the bill on the floor, briefly spoke in support of the measure.

SENATE BILL # 427 -- SPONSOR: Sen. McKeon was not able to attend the hearing; Fred Barrett spoke on his behalf. -- he mentioned a fiscal note which was attached to the bill and not accurate. Given the effective date that the act now carries, then in 1975 the Legislature would be required to appropriate only $16,000 to cover those employees that would be eligible. George Hammond, AFL-CIO and AFSCME, -- The Montana Act has been amended to cover certain employees. Ross Kainan, Mont. Public Employees Assoc.-- the State Federation supports this legislation. There is no cost in this biennium on the bill. Under Public Law 91-373, 44% of all

the state work force is now covered. The bill is asking to include the other half. R.L. Rampy arose in support of the bill. Jim Murry supports the expansion of unemployment compensation benefits. He feels the coverage should extend to all public employees, not just the state employees, as the Senate has amended it to exclusively include. No opponents; questions followed.

HOUSE RESOLUTION # 20 -- SPONSOR: Rep. Flynn spoke briefly on the resolution. Phil Strope, Inn Keepers Assoc. -- the hotel-motel industry concurs in what Rep. Flynn said. William Leary arose in support of the resolution, as did Rod Gudgel.

HOUSE RESOLUTION # 24 -- SPONSOR: Rep. Kimble -- discussion of the resolution took place.

The following action was taken:

HB# 579: Rep. Quilici had requested, and Rep. Hodges so moved, that it BE HELD OVER. Tierney seconded it; motion carried unanimously.

HR # 24: Rep. Flynn moved, Lombardi seconded, that it BE ADOPTED. Motion carried unanimously.

HR # 20: Rep. Lombardi moved, Lee seconded, that it BE ADOPTED. Motion carried unanimously.

SB # 427: Discussion took place. Rep. Tierney moved, Lee seconded, that it BE CONCURRED IN. Motion carried unanimously.

SB # 278: A subcommittee was appointed, with Rep. Flynn as Chairman, and Reps. Tierney and Lombardi as members.

SB # 447: Rep. Lee moved, seconded by Tierney, that it be amended as BE CONCURRED IN AS AMENDED. Motion carried unanimously.

SB # 446: A subcommittee was also appointed on this bill. Chairman: Pat McKittrick; members: Lee and Turman.

Meeting was adjourned.

Chairman Pat McKittrick

Secretary

RE: Senate Bill No. 446

"An act granting Public Employers and Public Employees the right fo bargain collectively."

Committee: Labor & Employment Relations

Bill sponsor: Senator Bertsche

* * * * *

Mr. Chairman and members of the [redacted] committee. I am George Hammond, Executive Director of Montana Council No. 9 of the American Federation of State, County and Municipal Employees, AFL-CIO.

The technicalities of Senate Bill 446 have been covered about as well as time this morning will permit. I would like to relate to this committee that Senate Bill 446 now before you began with a proposal drafted by labor, as were the proposals before the last two sessions of the legislature. However, before Senator Bertsche would consent to sponsor the proposal, several top management persons were asked to study the proposal and following these studies several meetings were scheduled for top level public management and labor. I would be less than honest if I did not state that I was reluctant to have changes suggested by management written in to the proposal. However, there was abundant evidence of good faith expressed at all of these meetings, and senate bill 446 is no longer a labor proposal, but a proposal of both management and labor.

It continues to become more and more apparent that when Public Employees are denied a right enjoyed by their brothers in private employment, such employees are relegated to less than first-class citizenship. The concept of sovereignty has long been abandoned in this nation, except occasionaly where public employees are concerned. Attempts to invoke this outmoded doctrine in situations which cry out for democratic procedures and mutual understanding is to single out public employees as unworthy of dignity.

We continue to hear rumors that collective bargaining in the public service will force all public employees into the unions. This is not true, as agency shop agreements must be negotiated between management and labor, and I wish to quote in part from page 8, Section 5, sub-section (3), line 2 of the bill: "---- and the execution of a written contract incorporating any agreement reached. SUCH OBLIGATION DOES NOT COMPEL EITHER PARTY TO AGREE TO A PROPOSAL OR REQUIRE THE MAKING OF A CONCESSION." Senate Bill 446 is a proposal to permit, and I repeat PERMIT collective bargaining in the public service. Senate Bill 446 establishes needed rules to govern employee organizations as well as the employer. It is a certainty that bargaining, where we have already established negotiating procedures, will be more orderly, and will assist the employer as well as the employee organization. Well founded rules are always helpful to any business, organization, agency or constructive effort. A study of senate bill 446 will establish that what the bill proposes will assist in constructing an arena for a better labor-management relationship in the public service.

The 1967 Executive Committee of the National Governor's Conference issued a report of a Task Force Study on State and Local Government relations, which has been updated each year since without significant change, and I quote from this report on Collective Bargaining: "Most authorities . . . . are convinced that if public employees are granted the right to share in the decision making process affecting wages and working conditions, they will be more responsive and better able to exchange with management, ideas and information on operations. Accordingly, government will be made more effective."

Again, members of the committee, I remind you there is a necessity for logical, orderly methods of settling labor-managment disputes in the public sector. Governments refusal to bargain with its employees carries with it a substantial threat

to the democratic concept which marks labor-management relations in the United States, and that refusal only antagonizes employees.

Public officials must recognize that they will deal with the problems of their employees, not ignore them and hope they will go away. If public officials and public employees approach the problems responsibly, sound solutions will be found. There never comes a convenient time to undo all of the de facto decisions which have been made and replace them with one uniform state policy.

Sebate bill 446 defines unfair labor practices for both the employer and the employee or employee organization in Section 5, and Section 7 provides for the remedy of such practices. Senate bill 446 also provides remedies for impasse situations by stipulating that such situations will first be submitted to mediation, then to fact-finding and finally a voluntary agreement for final and binding arbitration. By agreement,arbitration may supersede the fact-finding procedures.

Members of the committee, we realize that time does not permit the thorough analysis and explanation that we would like. However, after members of the committees and legislators have had the opportunity to examine the bill more closely, we will be available to explain any section or sections and to reply to questions that may arise after this hearing is closed.

Members of the committee, we urge your utmost consideration of senate bill 446, and solicit a DO PASS from your committees.

G. L. Hammond, Executive Director
Montana State Council No. 9
American Federation of State County and Municipal Employees, AFL-CIO
600 Cooke St., Helena, MT 59601

WITNESS STATEMENT

Name R.L. TAMPY Date 3-5-73

Address HOLIDAY MOTEL Support ? ✓

Representing TEAMSTERS L.C. #23 Oppose ? _____

Which Bill ? SB- 446- Amend ? ✓

Comments:

We support this bill on the principle of collective bargaining for public employees.

We feel the bill needs some amendments to make it a more workable bill for all.

There is another bill: SB 411 which should be tied in with this bill.

We would suggest & ask that a sub-committee be appointed to study this bill further along with SB- 411.

Please leave prepared statement with the committee secretary.

MARCH 5, 1973

TESTIMONY IN OPPOSTION TO SENATE BILL NO. 446

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE:

I AM NORMAN OSTRANDER, ASSOCIATE SECRETARY OF PUBLIC AFFAIRS FOR THE MONTANA CONFERENCE OF SEVENTH-DAY ADVENTISTS. I RISE IN OPPOSITION TO THIS BILL NOT ON THE PREMISE THAT SEVENTH-DAY ADVENTISTS WHO ARE PUBLIC EMPLOYEES, ARE OPPOSED TO COLLECTIVE BARGAINING, BUT ON THE BASIS THAT NO PROVISION HAS BEEN PROVIDED FOR INDIVIDUALS WHICH HAVE CONVICTIONS AGAINST JOINING OR SUPPORTING LABOR UNIONS.

THE SEVENTH-DAY ADVENTIST CHURCH HAS HISTORICALLY TAUGHT ITS MEMBERS NOT TO JOIN OR SUPPORT LABOR UNIONS AND THIS CONVICTION HAS JUST RECENTLY BEEN REAFFIRMED IN MEXICO CITY AT THEIR ANNUAL FALL COUNCIL (OCTOBER 1972).

WE AS A CHURCH DO NOT STAND ALONE IN THIS PROBLEM. THERE ARE SOME GROUPS OF PLYMOUTH BRETHERN, MENNONITES, THE ENTIRE BODY OF AMISH, ALONG WITH THE NATIONAL GROUPS OF EVANGELICALS AND THE CHRISTIAN MISSIONARY ALLIANCE AS WELL.

BECAUSE OF THE CONVICTION OF SEVENTH-DAY ADVENTISTS AND OTHERS AGAINST JOINING AND SUPPORTING LABOR UNIONS, MANY HAVE SOUGHT PUBLIC EMPLOYMENT TO AVOID THIS PROBLEM. THIS BILL, AS IT READS, STRIKES WITH GREAT IMPACT ON THE FUTURE OF THESE EMPLOYEES. IN ORDER TO PROTECT THESE PEOPLE, OTHER STATES WHICH HAVE PROPOSED SIMILAR BILLS HAVE PLACED A CONSCIENCE CLAUSE AMENDMENT WITHIN THEM. FOR EXAMPLE, IN THE STATE OF

WASHINGTON, MR. NORMAN SCOTT, PRESIDENT OF PUBLIC EMPLOYEE REPRESENTATIVES, HAS PLACED IN SENATE BILL 2543 DEALING WITH LABOR RELATIONS AND POLICIES A CONSCIENCE CLAUSE WHICH DOES NOT REQUIRE EMPLOYEES TO JOIN NOR SUPPORT LABOR UNIONS FOR RELIGIOUS CONVICTIONS. OTHER BILLS IN THE PROCESS OF LEGISLATION IN WASHINGTON ARE HOUSE BILLS 175 AND 489, BOTH DEALING WITH PUBLIC EMPLOYEES AND EMPLOYERS TO HAVE THE RIGHT TO COLLECTIVE BARGAINING. BOTH BILLS CONTAIN A CONSCIENCE CLAUSE SIMILIAR TO THE ONE WE WILL BE PROPOSING AND BOTH BILLS ARE ON THE GOVERNOR'S DESK THIS MORNING FOR SIGNATURE. THE LEGISLATIVE HOUSE OF OREGON HAS ALSO JUST RECENTLY PASSED TWO OF ITS BILLS, H.B. 2338 DEALING WITH AGRICULTURE LABOR RELATIONS BOARD AND H.B. 2263 PERTAINING TO PUBLIC EMPLOYEES BOTH WITH CONSCIENCE CLAUSES. AS I UNDERSTAND IT, THIS MATTER HAS BEEN CARED FOR IN OTHER COUNTRIES SUCH AS AUSTRALIA AND NEW ZEALAND IN EXACTLY THE SAME MANNER WE ARE PROPOSING.

THIS POSITION WAS PRESENTED TO CONGRESS IN 1965 AT THE TIME WHEN LABOR UNIONS TRIED TO REPEAL THE TAFT-HARTLEY ACT SECTION 14(B). SEVENTH-DAY ADVENTISTS WENT TO CONGRESS APPEALING FOR PROTECTION. WHEN OUR PROBLEMS WERE MADE KNOWN, LABOR SAID THEY WOULD TAKE CARE OF IT, REQUESTING CONGRESS MAKE NO LAWS. THEIR ORGANIZATION WOULD SEE THAT EVERY EMPLOYEE WOULD HAVE HIS RIGHTS PRESERVED. MR. GEORGE MEANY MADE THIS PROMISE IN HIS TESTIMONY TO CONGRESS. A LITTLE LATER, ON SEPTEMBER 20, 1965, HE STATED THAT PROVISIONS SHOULD BE GIVEN "TO RELIGIOUS OBJECTORS THE OPTION OF CONTRIBUTING

TO A NON-RELIGIOUS CHARITY, DESIGNATED BY THE UNION, SUMS EQUAL TO UNION DUES AND INITATION FEES--PROVISIONS WHICH THE AFL-CIO SUPPORTS."

IN THE MEANTIME VARIOUS CHURCH GROUPS APPEARED BEFORE THE COMMITTEE. REV. CAROTHERS, SPEAKING FOR THE NATIONAL COUNCIL OF CHURCHES TOLD THEM THAT "ADEQUATE PROTECTION MUST BE FOUND" AND INDICATED THAT LABOR WAS GOING TO CARE FOR IT. THE RIGHT REVEREND MONSIGNOR GEORGE HIGGINS, DIRECTOR OF SOCIAL ACTION NATIONAL COUNCIL OF CATHOLIC WELFARE CONFERENCE, WHOLEHEARTEDLY AGREED WITH THE POSITION STATED AND PRAISED MR. MEANY FOR HIS STAND. RABBI RICHARD HIRSCH, REPRESENTATIVE OF THE COUNCIL OF AMERICAN RABBIS ALSO UPHELD THIS POSITION, "NO MATTER HOW SMALL THE GROUP."

THIS ALL TOOK PLACE IN 1965---AND WE ARE STILL WAITING FOR THAT PROMISE TO BE FULFILLED. WE DON'T WANT MORE PROMISES, BUT WE DO WANT LABOR TO STAND BY WHAT THEY SAID THEY WOULD DO.

SENATE BILL 446, AS IT READS, IS OUT OF HARMONY WITH THE CIVIL RIGHTS LAW OF 1964. THIS LAW FORBIDS DISCRIMINATION AGAINST COLOR, NATIONAL ETHNIC BACKGROUNDS, RELIGIONS, AND OTHERS.

IT APPEARS WE ARE BUILDING A LAW THAT WILL IN THE FUTURE TAKE AWAY THE CIVIL RIGHTS OF MONTANANS. THE RECENT DECISION OF THE EQUAL EMPLOYMENT OPPORTUNITY COMMISSION APPEARS TO INDICATE THAT LABOR IS VIOLATING THE 1964 CIVIL RIGHTS LAW WITH DISCRIMINATION. THE E.E.O. ACT OF 1972, TITLE 7, SECTION 701 J STATES: "THE TERM 'RELIGION' INCLUDES ALL ASPECTS OF RE-

LIGIOUS OBSERVANCE AND PRACTICE AS WELL AS BELIEFS, UNLESS AN EMPLOYER DEMONSTRATES THAT HE IS UNABLE TO REASONABLY ACCOMMODATE TO AN EMPLOYEE'S OR PROSPECTIVE EMPLOYEE'S RELIGIOUS OBSERVANCE OR PRACTICE WITHOUT UNDUE HARDSHIP ON THE CONDUCT OF THE EMPLOYER'S BUSINESS."

ACCORDING TO THE CONGRESSIONAL RECORD OF THURSDAY AUGUST 12, 1965, LABOR HAS INDICATED TO CONGRESS THEY CAN LIVE BY THESE ADJUSTMENTS AND THAT IT BRINGS NO THREAT TO THEIR SECURITY. IT IS ON THIS PREMISE, AND THAT OF THE AFL-CIO EXECUTIVE COMMITTEE, THAT WE SEEK PROTECTION FOR THOSE WHO HAVE NEED FOR A CONSCIENCE CLAUSE BY RECOMMENDING THE FOLLOWING AMENDMENT BE MADE ON PAGE 7, LINE 6 BY STRIKING THE SEMICOLON FOLLOWING THE WORD "DUES;" AND INSERTING IN LIEU THEREOF A COMMA (,) AND THE FOLLOWING NEW MATERIAL:

"EXCEPT THAT IN ANY AND ALL AGREEMENTS INVOLVING UNION SECURITY INCLUDING ALL-UNION, AGENCY SHOP, OR OTHER SUCH AGREEMENT, SAFEGUARDS MUST BE FOLLOWED TO PROTECT THE RIGHTS OF NON-ASSOCIATION OF EACH EMPLOYEE WHO ADHERES TO TENETS OR TEACHINGS OF A BONA-FIDE RELIGIOUS BODY OR SECT OF WHICH HE IS A MEMBER, OR THAT, EVEN THOUGH HE IS NOT A MEMBER OF SUCH RELIGIOUS BODY OR SECT, HE HOLDS CONSCIENTIOUS OBJECTIONS TO SUCH ASSOCIATION BASED UPON HIS RELIGIOUS TRAINING AND BELIEFS IN RELATIONSHIP TO A SUPREME BEING.

HE SHALL IN LIEU OF DUES OR FEES CONTRIBUTE A SUM OF MONEY EQUAL TO UNION INITIATION FEES OR REGULAR UNION DUES TO A NON-RELIGIOUS, NON-UNION CHARITABLE ORGANIZATION EXEMPT

FROM TAXATION UNDER SECTION 501 (C) (3) OF THE INTERNAL REVENUE CODES MUTUALLY AGREED UPON BY EMPLOYEE AND UNION OR IN THE EVENT OF FAILURE TO AGREE TO SUCH CHARITY SO NAMED BY THE BOARD OF PERSONNEL APPEALS. THE EMPLOYEE SHALL FURNISH WRITTEN PROOF IN THE FORM OF RECEIPTS THAT THIS HAS BEEN DONE OR ACCOMPLISHED."

I WOULD LIKE TO THANK YOU VERY MUCH FOR YOUR CONSIDERATION OF THIS PROPOSAL.

N. D. OSTRANDER
ASSOCIATE SEC'Y OF PUBLIC AFFAIRS
MONTANA CONFERENCE OF
SEVENTH-DAY ADVENTISTS
1067 CHEYENNE RD.
HELENA, MONTANA 59601
PHONE: 458-5797

C O P Y

Statement by the AFL-CIO Executive Council

on

Union Membership and Religious Objectors

New York, New York
September 20, 1965

In connection with consideration by the Congress of repeal of Section 14(b) of the Taft-Hartley Act, representatives of certain religious groups testified that some of their members have personal religious convictions which may stand in the way of their formally joining unions or, to varying degrees, participating in or financially supporting union activities.

A number of national and international unions have in the past worked out arrangements with particular religious groups for handling this problem of individual religious objectors, but other unions have not yet done so.

The Senate Labor Committee has incorporated in the bill repealing Section 14(b) provisions giving to religious objectors the option of contributing to a non-religious charity, designated by the union, sums equal to union dues and initiation fees--provisions which the AFL-CIO supports. These provisions become operative where there are no voluntary agreements covering these matters. It is the conviction of the AFL-CIO that such voluntary union agreements are the best method for handling such matters.

Therefore this Executive Council declares it to be the policy of the AFL-CIO that unions should accommodate themselves to genuine individual religious scruples. We strongly urge all national and international unions affiliated with the AFL-CIO, that have not already done so, to:

1. Immediately adopt procedures for respecting sincere personal religious convictions as to union membership or activites; and

2. Undertake to insure that this policy is fully and sympathetically implemented by all local unions.

U.S. House of Postal Service Committee Section

Postal Service Bill signed into law by President Nixon in August, Congress has declared its intention to protect those citizens with religious scruples against joining or financially supporting labor unions.

The conscience clause, as it has become known, states that:

(c) No individual who is a member of a religious sect, or division thereof, the established and traditional tenets or teachings of which oppose a requirement that a member of such sect or division join or financially support any labor organization, may be required to join or financially support any labor organization as a condition of employment if such individual pays to the Treasury of the United States a sum equal to the initiation fees and periodic dues uniformly required as a condition of acquiring and retaining membership in a labor organization which is representative of the employee unless said individual and said labor organization mutually agree upon some other condition of employment.

Oregon Law as of Jan 1-1972

"However, agreements involving union security including an all-union agreement or agency agreement must safeguard the rights of nonassociation of employes, based on bona fide religious tenets or teachings of a church or religious body of which such employe is a member. Such employe must pay an amount of money equivalent to regular union dues and initiation fees and assessments, if any, to a nonreligious charity or to another charitable organization mutually agreed upon by the employe affected and the representative of the labor organization to which such employe would otherwise pay dues. The employee shall furnish written proof that this has been done. If the employe and representative of the labor organization do not reach agreement of the matter, the board shall designate such organization.". ORS 663-110 Oregon Laws Chapter 729 Sec 5

March 7, 1973

LABOR AND EMPLOYMENT RELATIONS COMMITTEE PROCEEDINGS:

A meeting of the Labor and Employment Relations Committee was held on Wednesday, March 7, 1973 at 10:30 a.m. in Room 428A with Chairman Pat McKittrick presiding. All members were present except Rep. Vic East.

No bills were heard. The following action was taken:

SB # 446: SUBCOMMITTEE REPORT: amendments were proposed. Rep. Turman moved, seconded by Hodges, that the amendments be adopted. Motion carried unanimously. Lombardi then moved, Lee seconded, that the second half of the proposed subcommittee amendments be adopted. Motion carried unanimously. Rep. Bell moved to further amend it to concur with a proposed amendment made by Rev. Ostrander of the Seventh Day Adventists. Motion failed; those in favor: Reps. Ellerd, Bell, Turner and Colberg. Those opposed: Reps. Lombardi, Kimble, Bennetts, Turman, Tierney, Flynn, Lee, Baeth, Hodges, and McKittrick. Rep. Baeth then moved that it BE CONCURRED IN AS AMENDED. Hodges seconded the motion; discussion followed. Motion carried; those opposed: Reps. Turner, Ellerd, Bell and Flynn.

SB # 278: SUBCOMMITTEE REPORT: Rep. Flynn moved that it BE CONCURRED IN, Tierney seconded it. Discussion followed. Rep. Tierney reported some of his findings as a member of the subcommittee. Motion carried unanimously.

Meeting was adjourned.

Chairman Pat McKittrick

Secretary

industry for administrative purposes only as prescribed in section 82A-108.

(3) The board consists of five (5) members appointed by the governor as prescribed in section 82A-112. Two (2) members shall represent management, two (2) members shall represent employees or employee organizations of the state, and one (1) member shall represent a neutral position.

(4) Any employee or his representative affected by the operation of this act is entitled to file a complaint with the board and to be heard, under the provisions of a grievance procedure to be prescribed by the board. The board may instruct the department to take corrective action that may be necessary to resolve grievances that are found to be legitimate.

Section 16. The merit system, established in 1940 by certain state agencies of state government, as a requirement for receipt of federal funds, shall continue to operate for those agencies under the policies and procedures established by the merit system council.

Section 17. If a part of this act is invalid, all valid parts that are severable from the invalid parts remain in effect. If part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid application.

Approved: March 22, 1973.

CHAPTER NO. 441

An Act granting Public Employers and Public Employees the right to bargain collectively; providing that the Board of Personnel Appeals may designate labor organizations to be exclusive representative of employees in certain units; and may also call elections by employees for the same purpose; providing the Board of Personnel Appeals shall establish remedies for unfair labor practices; and providing procedures for carrying out the Act.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. In order to promote public business by removing certain recognized sources of strife and unrest, it is the policy of the state of Montana to encourage the practice and procedure of collective bargaining to arrive at friendly adjustment of all disputes between public employers and their employees.

Section 2. When used in this act: (1) "public employer" means the state of Montana or any political subdivision thereof,

including but not limited to, any town, city, county, district, school board, board of regents, public and quasi-public corporation, housing authority or other authority established by law, and any representative or agent designated by the public employer to act in its interest in dealing with public employees;

(2) "public employee" means a person employed by a public employer in any capacity, except elected officials, persons directly appointed by the governor, supervisory employees and management officials (as defined in subsection (3) and (4) below) or members or any state board or commission who serve the state intermittently, professional instructors, teachers, school district clerks and school administrators, and paraprofessional instructors employed by school boards and districts of this state, registered professional nurses performing service for health care facilities, professional engineers and engineers in training, and includes any individual whose work has ceased as a consequence of, or in connection with, any unfair labor practice or concerted employee action;

(3) "supervisory employee" means any individual having authority, in the interest of the employer to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, discipline other employees, having responsibility to direct them, to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(4) "management officials" means representatives of management having authority to act for the agency on any matters relating to the implementation of agency policy;

(5) "labor organization" means any organization or association of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment, fringe benefits, or other conditions of employment;

(6) "exclusive representative" means the labor organization which has been designated by the board as the exclusive representative of employees in an appropriate unit or has been so recognized by the public employer;

(7) "board" means the board of personnel appeals provided for in section 82A-1014;

(8) "person" includes one or more individuals, labor organizations, public employees, associations, corporations, legal representatives, trustees, trustees in bankruptcy, or receivers;

(9) "unfair labor practice" means any unfair labor practice listed in section 5;

(10) "labor dispute" includes any controversy concerning terms, tenure or conditions of employment, or concerning the association or representation of persons in negotiating, fixing, maintaining, changing, or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand the proximate relation of employer and employee;

(11) "appropriate unit" means a group of public employees banded together for collective bargaining purposes as designated by the board.

Section 3. (1) Public employees shall have, and shall be protected in the exercise of, the right of self-organization, to form, join or assist any labor organization, to bargain collectively through representatives of their own choosing on questions of wages, hours, fringe benefits, and other conditions of employment and to engage in other concerted activities for the purpose of collective bargaining or other mutual aid or protection, free from interference, restraint or coercion.

(2) Public employees and their representatives shall recognize the prerogatives of public employers to operate and manage their affairs in such areas as but not limited to:

(a) direct employees;

(b) hire, promote, transfer, assign, and retain employees;

(c) relieve employees from duties because of lack of work or funds or under conditions where continuation of such work be inefficient and nonproductive;

(d) maintain the efficiency of government operations;

(e) determine the methods, means, job classifications, and personnel by which government operations are to be conducted;

(f) take whatever actions may be necessary to carry out the missions of the agency in situations of emergency;

(g) establish the methods and processes by which work is performed.

(3) Labor organizations designated in accordance with the provisions of this act are responsible for representing the interest of all employees in the exclusive bargaining unit without discrimination for the purposes of collective bargaining with respect to rates of pay, hours, fringe benefits, and other conditions of employment.

(4) Certification as an exclusive representative shall be extended or continued as the case may be only to a labor or employee organization the written bylaws of which provide for and guarantee the following rights and safeguards and whose practices conform to such rights and safeguards as: provisions are made for democratic organization and procedures; elections are conducted pursuant to adequate standards and safeguards; controls are provided for the regulation of officers and agents having fiduciary responsibility to the organization; and requirements exist for maintenance of sound accounting and fiscal controls including annual audits.

Section 4. The public employer and the exclusive representative, through appropriate officials or their representatives, shall have the authority and the duty to bargain collectively. This duty extends to the obligation to bargain collectively in good faith as set forth in subsection (3) of section 5 of this act.

Section 5. (1) It is an unfair labor practice for a public employer to:

(a) interfere with, restrain, or coerce employees in the exercise of the rights guaranteed in section 3 of this act;

(b) dominate, interfere, or assist in the formation or administration of any labor organization; however, subject to rules adopted by the board under section 12 (3), an employer is not prohibited from permitting employees to confer with him during working hours without loss of time or pay;

(c) discriminate in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any labor organization; however, nothing in this act or in any other statute of this state precludes a public employer from making an agreement with an exclusive representative to require that an employee who is not or does not become a union member shall be required as a condition of employment to have an amount equal to the union initiation fee and monthly dues deducted from his wages in the same manner as checkoff of union dues;

(d) discharge or otherwise discriminate against an employee because he has signed or filed an affidavit, petition, or complaint or given any information or testimony under this act;

(e) refuse to bargain collectively in good faith with an exclusive representative.

(2) It is an unfair labor practice for a labor organization or its agents to:

(a) restrain or coerce employees in the exercise of the right guaranteed in subsection (1) of section 3 of this act, or a public

employer in the selection of his representative for the purpose of collective bargaining or the adjustment of grievances;

(b) refuse to bargain collectively in good faith with a public employer, if it has been designated as the exclusive representative of employees;

(c) use agency shop fees for contributions to political candidates or parties at state or local levels.

(3) For the purpose of this act, to bargain collectively is the performance of the mutual obligation of the public employer, or his designated representatives, and the representatives of the exclusive representative to meet at reasonable times and negotiate in good faith with respect to wages, hours, fringe benefits, and other conditions of employment, or the negotiation of an agreement, or any question arising thereunder, and the execution of a written contract incorporating any agreement reached. Such obligation does not compel either party to agree to a proposal or require the making of a concession.

(4) This act does not limit the authority of the legislature, any political subdivision or the governing body, relative to appropriations for salary and wages, hours, fringe benefits, and other conditions of employment.

Section 6. (1) Whenever in accordance with such rules as may be prescribed by the board, a petition has been filed:

(a) by an employee or group of employees or any labor organization acting in their behalf alleging that thirty percent (30%) of the employees:

(i) wish to be represented for collective bargaining by a labor organization as exclusive representative, or

(ii) assert that the labor organization which has been certified or is currently being recognized by the public employer as bargaining representative is no longer the representative of the majority of employees in the unit; or

(b) by the public employer alleging that one or more labor organizations has presented to it a claim to be recognized as the exclusive representative in an appropriate unit, the board or an agent of the board shall investigate the petition, and if it has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice. If the board or an agent of the board finds that there is a question of representation, it shall direct an election by secret ballot to determine whether, and by which labor organization the employees

desire to be represented or whether they desire to have no labor organization represent them and shall certify the results thereof. Only those labor organizations which have been designated by more than ten percent (10%) of the employees in the unit found to be appropriate shall be placed on the ballot. Nothing in this section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the rules of the board.

(2) In order to assure employees the fullest freedom in exercising the rights guaranteed by this act, the board or an agent of the board shall decide the unit appropriate for the purpose of collective bargaining, and shall consider such factors as community of interest, wages, hours, fringe benefits, and other working conditions of the employees involved, the history of collective bargaining, common supervision, common personnel policies, extent of integration of work functions and interchange among employees affected, and the desires of the employees.

(3) An election shall not be directed in any bargaining unit or in any subdivision thereof within which, in the preceding twelve (12) month period, a valid election has been held. The board or an agent of the board shall determine who is eligible to vote in the election and shall establish rules governing the election. Unless the majority vote is for no representation by a labor organization and in any election where none of the choices for a representative on the ballot receives a majority, a runoff election shall be conducted; the ballot providing for selection between the two choices receiving the largest and the second largest number of valid votes cast in the election. A labor organization which receives the majority of the votes cast in an election shall be certified by the board as the exclusive representative.

Section 7. Violations of the provisions of section 5 of this act are unfair labor practices remediable by the board in the following manner:

(1) Whenever a complaint is filed alleging that any person has engaged in or is engaging in any such unfair labor practice, the board, or any agent designated by the board for such purposes, shall issue and cause to be served upon the person a copy of the complaint and a notice of hearing before the board, a member thereof, or before a designated agent, at a time and place therein fixed, not less than five (5) working days after the date of service. Any complaint may be amended by the complainant at any time prior to the issuance of an order based thereon, provided that the charged party is not unfairly prejudiced thereby. The person upon whom the charge is served shall file an answer to the com-

plaint. The complainant and the person charged shall be parties and shall appear in person or otherwise give testimony at the place and time fixed in the notice of hearing. In the discretion of the board or its agent conducting the hearing, any other person may be allowed to intervene in the proceeding and present testimony. In any hearing the board is not bound by the rules of evidence prevailing in the courts.

(2) The testimony taken by the board or its agent shall be reduced to writing and filed with the board. Thereafter in its discretion the board upon notice may take further testimony or hear argument. If upon the preponderance of the testimony taken the board is of the opinion that any person named in the complaint has engaged in or is engaging in an unfair labor practice, it shall state its findings of fact and shall issue and cause to be served on the person an order requiring him to cease and desist from the unfair labor practice, and to take such affirmative action including reinstatement of employees with or without back pay, as will effectuate the policies of this act. The order may further require the person to make reports from time to time showing the extent to which he has complied with the order. If upon the preponderance of the testimony taken the board is not of the opinion that the person named in the complaint has engaged in or is engaging in the unfair labor practice, then the board shall state its findings of fact and shall issue an order dismissing the complaint. No notice of hearing shall be issued based upon any unfair labor practice more than six (6) months before the filing of the charge with the board, unless the person aggrieved thereby was prevented from filing the charge by reason of service in the armed forces, in which event the six (6) month period shall be computed from the day of his discharge. No order of the board shall require the reinstatement of any individual as an employee who has been suspended or discharged, or the payment to him of any back pay, if it is found that the individual was suspended or discharged for cause. If the evidence is presented before a member of the board, or before an examiner, the member, or the examiner as the case may be, shall issue and cause to be served on the parties to the proceeding a proposed decision, together with a recommended order, which shall be filed with the board, and if no exceptions are filed within twenty (20) days after service thereof upon the parties, or within such further period as the board may authorize, the recommended order shall become the order of the board.

(3) Until the record in a proceeding has been filed in district court, the board at any time, upon reasonable notice and in such manner as it considers proper, may modify or set aside, in whole or in part, any finding or order made or issued by it.

Section 8. (1) The board or the complaining party may petition for the enforcement of the order of the board and for appropriate temporary relief or a restraining order, and shall file in the district court, at its own expense, the record in the proceedings. Upon the filing of the petition, the district court shall have jurisdiction of the proceeding. Thereafter, the district court shall set the matter for hearing and shall order the party charged to be served with notice of hearing at least twenty (20) days before the date set for hearing. After the hearing the district court shall issue its order granting such temporary or permanent relief or restraining order as it considers just and proper, enforcing as so modified, or setting aside in whole or in part the order of the board. No objection that has not been raised before the board shall be considered by the court, unless the failure or neglect to raise the objection is excused because of extraordinary circumstances. The findings of the board with respect to questions of fact, if supported by substantial evidence on the record considered as a whole, shall be conclusive. If either party applies to the court for leave to present additional evidence and shows to the satisfaction of the court that the additional evidence is material and that there were reasonable grounds for the failure to present it in the hearing before the board, the court may order the additional evidence to be taken before the board and to be made part of the record. The board may modify its findings as to the facts, or make new findings, by reason of additional evidence so taken and filed, and it shall file the modifying or new findings with the district court. Any order of the district court shall be subject to review by the supreme court in accordance with rules of civil procedure.

(2) The commencement of proceedings under subsection (1) of this section shall not, unless specifically ordered by the court, operate as a stay of the board's order.

Section 9. The chief executive officer of the state or political subdivision or chairman of the county commissioners, whether elected or appointed, or his designated authorized representative shall represent the public employer in collective bargaining with an exclusive representative.

Section 10. (1) Any agreement reached by the public employer and the exclusive representative shall be reduced to writing and shall be executed by both parties.

(2) An agreement may contain a grievance procedure culminating in final and binding arbitration of unresolved grievances and disputed interpretations of agreements.

(3) An agreement between the public employer and a labor organization shall be valid and enforced under its terms when entered into in accordance with the provisions of this act and signed by the chief executive officer of the state or political subdivision or his representative. A publication of the agreement is not required to make it effective. The procedure for the making of an agreement between the state or political subdivision and a labor organization provided by this act is the exclusive method of making a valid agreement for public employees represented by a labor organization.

Section 11. In any action brought under the provisions of this act in the courts of this state the public employer shall be represented by the attorney general or attorney of subdivision, and the board shall be represented by counsel hired to represent the board for purposes of that proceeding.

Section 12. Upon written authorization of any public employee within a bargaining unit, the public employer shall deduct from the pay of the public employee the monthly amount of dues as certified by the secretary of the exclusive representative and shall deliver the dues to the treasurer of the exclusive representative.

Section 13. (1) To accomplish the objectives and to carry out the duties prescribed by this act, the board may subpoena witnesses and may administer oaths and affirmations.

(2) In cases of neglect or refusal to obey a subpoena issued to any person, the district court of the county in which the investigations or the public hearings are taking place, or the district court of the first judicial district of this state, upon application by the board, may issue an order requiring such person to appear before the board or agent to produce evidence or give testimony about the matter under investigation. Failure to obey such order may be punished by the court as contempt.

(3) Any subpoena, notice of hearing or other process or notice of the board issued under the provisions of this act shall be served as provided by the rules of civil procedure.

(4) The board shall adopt, amend, or rescind such rules it considers necessary and administratively feasible to carry out the provisions of this act.

Section 14. (1) If after a reasonable period of negotiation over the terms of an agreement, or upon expiration of an existing collective bargaining agreement, a dispute concerning the collective bargaining agreement exists between the public employer and a labor organization, the parties shall request mediation.

(2) If upon expiration of an existing collective bargaining agreement, or thirty (30) days following certification or recognition of an exclusive representative, a dispute concerning the collective bargaining agreement exists between the employer and the exclusive representative, either party may petition the board to initiate fact-finding.

(3) Within three (3) days of receipt of such petition the board shall submit to the parties a list of seven (7) qualified, disinterested persons from which list the parties shall alternate in striking three (3) names, and the remaining person shall be designated fact finder. This process shall be completed within five (5) days of receipt of the list. The parties shall notify the board of the designated fact finder.

(4) If no request for fact-finding is made by either party before the expiration of the agreement, or thirty (30) days following certification or recognition of an exclusive representative, the board may initiate fact-finding as provided for in (3) above.

(5) The fact finder shall immediately establish dates and place of hearings. Upon request of either party of the fact finder, the board shall issue subpoenas for hearings conducted by the fact finder. The fact finder may administer oaths. Upon completion of the hearings, but no later than twenty (20) days from the day of appointment, the fact finder shall make written findings of facts and recommendations for resolution of the dispute and shall serve such findings on the public employer and the exclusive representative. The fact finder may make this report public five (5) days after it is submitted to the parties. If the dispute is not resolved fifteen (15) days after the report is submitted to the parties, the report shall be made public.

(6) The public employer and the exclusive representative shall be the only proper parties to fact-finding proceedings.

(7) The cost of fact-finding proceedings shall be equally borne by the board and the parties concerned.

(8) Nothing in this section prohibits the fact finder from endeavoring to mediate the dispute in which he has been selected or appointed as fact finder.

(9) Nothing in this section prohibits the parties from voluntarily agreeing to submit any or all of the issues to final and binding arbitration, and if such agreement is reached the arbitration shall supersede the fact-finding procedures set forth in this section. An agreement to arbitrate, and the award issued in accordance with such agreement shall be enforceable in the same manner as

is provided in this act for enforcement of collective bargaining agreements.

Section 15. If any provision of this act or the application of such provision to any person or circumstance is held invalid, the remainder of this act or the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Section 16. Nothing in this act shall be construed to remove recognition of established collective bargaining agreements already recognized or in existence prior to the effective date of this act.

Section 17. All hearings and appeals shall be in accordance with the appropriate provisions of the Montana Administrative Procedure Act.

Approved: March 22, 1973.

CHAPTER NO. 442

An Act Providing for Regulation of the Various Phases of the Marketing and Distribution of Agricultural Seeds Intended for Propagation Purpose and Restricting the Methods of Disposition of Screenings that Contain Viable Prohibited Noxious Weed Seed; and Repealing Sections 3-301 through 3-309, R.C.M. 1947.

Be it enacted by the Legislative Assembly of the State of Montana:

Section 1. When used in this act:

(1) "Department" means the department of agriculture.

(2) "Agricultural seed" means the seeds of grass, forage, cereal, and fiber crops and any other kinds of seeds commonly recognized within this state as agricultural seeds, and includes lawn seeds and mixtures of seeds.

(3) "Montana certified seed grower" means a member of an authorized Montana seed certifying agency who has consented to increase seed under the rules for certified classes of seed, with respect to the maintenance of genetic purity and variety identity, set forth by the certifying agency.

(4) "Person" means any individual, firm, copartnership, corporation, or association.

(5) "Public agricultural seed warehouse" means and includes any warehouse or structure in which agricultural seed is received from the public for storage, assembling, or cleaning.